



County of Surry Virginia
Planning Commission Meeting Minutes
July 28, 2025

MEETING CONVENED: The meeting of the Surry County Planning Commission was called to order at 6 PM on Monday, July 28, 2025, in the Surry County General District Court, 45 School Street, Surry, VA, by Dr. Giron Wooden, Jr., Chair.

ATTENDANCE: The following members responded present to Roll Call:

Dr. Giron Wooden, Jr., Chair
Mr. Thomas Hardy, Vice Chair
Mr. Theodore Lunsford
Mr. Earl Newby, Sr.
Mr. Breyon Pierce
Mr. Stephen Berryman
Mr. William Seward, IV
Ms. Dianne Cheek
Ms. Carmen D. Judkins

Absent:

Mr. Eddie Brock
Mr. David Coggin

Staff Presents

Mr. Horace Wade, III, Director of Planning and Community Development
Ms. Regina Hilton, Administrative Assistant
Mr. Darius Savedge, Senior Planner
Ms. Lola Perkins, County Attorney

PLEDGE OF ALLEGIANCE: All

ADOPTING OF AGENDA: Chair Wooden said before asking for a motion to adopt the agenda, we received word from the Planning Staff that the old business item has been withdrawn. Chair Wooden entertained a motion to adopt the meeting's agenda, minus the item listed under old business. It was moved by Mr. Pierce and seconded by Mr. Newby.

In favor: (9) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Seward, Pierce
Opposed: 0
Abstain: 0

APPROVAL OF CONSENT ITEMS: Chair Wooden asked the Commissioners for the disposition of the minutes for June 23, 2025. Chair Wooden said that he was informed by Mr. Wade that Ms. Cheek found a correction needed. She was absent but was listed in the vote at the last meeting. Also, Mr. Pierce made was inadvertently left out of the list of votes. A motion to accept the minutes with the necessary corrections on page eight and nine was made by Mr. Lunsford and seconded by Mr. Pierce.

In favor: (9) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Seward, Pierce

Opposed: 0

Abstain: 0

NEW BUSINESS:

1. Motion to bring forth an Ordinance to amend provisions of the Subdivision Ordinance and Zoning Ordinance relative to subdividing property.

Mr. Wade said the purpose of the motion is to bring forth an ordinance to amend provisions of the subdivision and zoning ordinance that relate to subdividing property. Staff have noticed that based on General Assembly action, certain elements relating to subdivisions in our subdivision and zoning ordinance are outdated and requires further clarification. Mr. Wade said that Staff is looking for a motion from the Planning Commission to start the process of looking at that language, and bringing forth amendments to our subdivision and zoning ordinance by way of the Subdivision Subcommittee. Ms. Perkins provided language for a motion and Mr. Wade said he could answer any questions.

Mr. Berryman asked how long the process would be and whether there would be a public hearing. Mr. Wade said that the process would likely take a couple of months for Staff to review the General Assembly updates, draft recommended language and to meet with the subdivision subcommittee to review recommendations, before coming before the Planning Commission for a public hearing. And then, to ultimately have a vote by the Board of Supervisors. When meeting with the subdivision subcommittee, there were identified elements within the zoning ordinance in the district's purpose but were not enforceable because there were suggested but there was no requirement. If the County wanted to take the suggestions found in the purpose and make them requirements, they would have to be added to sections of the ordinance that set out the necessary requirements. In talking with the subdivision subcommittee, there seemed to be an overall overwhelming desire to address those deficiencies in the ordinance.

Ms. Cheek asked if Mr. Wade were saying it would be four months before it came to the Commission or saying two. Mr. Wade said it would take a couple of months for the staff evaluation of the subdivision ordinance. If you look at it time-wise, it would probably be a minimum four months before coming before the Planning Commission.

Chair Wooden asked, "In the meantime, would it come before the subdivision subcommittee?" Mr. Wade said yes. Vice-Chair Hardy asked if it would give the applicant time to gather everything needed to present to the staff for approval or a presentation to the Planning Commission. Mr. Wade clarified it would be for the updates of the subdivision ordinance. "We wouldn't have to work with any applicants

for this one.” Mr. Wade said it would just be two months for staff review. The Subcommittee and the Commission would then review it, and subsequently advertise for the public hearing. Ms. Perkins also said legal review would be necessary.

Chair Wooden asked for a motion. Mr. Newby made a motion, “For the subdivision ordinance and zoning ordinance amendment relating to subdivided property, motion to bring forth and according with the Virginia code section 15.2-2286 (A)(7), I make a motion that public necessity, convenient general welfare in good zoning practice require that an amendment to the Surry County subdivision ordinance and zoning ordinance relating to subdividing property be brought forth to the Planning Commission for public hearing, consideration and action on such amendment, following the public hearing.” The motion was seconded by Ms. Judkins.

In favor: (9) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Judkins, Seward, Pierce
Opposed: 0
Abstain: 0

PUBLIC COMMENTS:

Ms. Joyce Bryant is a citizen of Surry County. Her father was Brant Oakley, and her mother was a Wren. Ms. Bryant grew up with a happy childhood in Surry County and later moved to Richmond, working in payroll. Every two weeks, she had to remind everybody to send in their time sheets. She would always write a story to them about back home, down on the farm in Surry County. Ms. Bryant loved Surry County, and unfortunately, her husband died, “But then God brought her Charles Sexton from Claremont.” They married and built a home an eighth of a mile from Paul Wren, who is her cousin. She was happy returning to Surry County, but she was looking at the solar panels and said, “I just don't like them.” She knew that they make people rich. Ms. Bryant said with this subdivision coming, she just feels like we're losing Surry County, “It's going to be like Smithfield or Richmond.” If this project goes through, what will stop her from saying, “I can develop my 79 acres into a subdivision. Who's going to oppose it?” She said that the Commission is setting a precedent for growth in Surry County. “Paul Wren and Ray Bowles asked years ago, could they buy one acre to build a house. Paul Wren's got this eye problem, his eyes would wet, and he would pull his handkerchief out and just wipe his eyes.” Ms. Bryant has the same problem. Her husband said, “I'd rather see the squirrels run”. That is how she feels.

COMMITTEE UPDATES: Mr. Wade said for committee updates, staff will be working with the Subdivision Subcommittee and the Comprehensive Plan Subcommittee. Both committees will be relatively busy over the next couple of months, working on a subdivision and a comprehensive plan amendment. Staff will be working with our consultants on the comprehensive plan amendment, and staff will be working on the subdivision ordinance.

PC SECRETARY COMMUNICATION:

Ms. Perkins:

- The General Assembly met earlier this year and enacted several new laws. Some of which have a significant impact on the work that the Planning Commission is doing. The General Assembly

made several changes to Virginia Code sections that have a significant impacts to the authority given under the code to governing bodies and Planning Commissions.

- Virginia is considered a Dillon Rule state, which means localities can only do what General Assembly and what the state gives them the authority to do. It is often referred to as the "mother may I" type of legal structure to localities. There are some states in the U.S. that are what you would call home-rule states. In those states, the localities can make up their own rules.
- The authority that existed giving the Planning Commission the power to review, approve, or deny subdivision plats, has in fact been eliminated by the General Assembly. The task of reviewing and acting on subdivision plats, site plans, and plans of development is now exclusively with the designated agent of the County.
- Before there was more flexibility, as the agent was a part of the equation, for the agent to come to the Planning Commission, and in certain scenarios, the governing body or the Planning Commission, would make that approval or denial determination. That authority has been stripped by the General Assembly. The history of the bill and how it came about is not known to Ms. Perkins, she has inquired but has gotten an answer. The bill was introduced; it went through the General Assembly and was approved and signed by the Governor.
- The law specifically says, "The designated agent cannot be the local Planning Commission, except where the population of a jurisdiction is 5,000 or less."
- This change went into effect on July 1, 2025. When first hearing of the change as alluded to during the recent subdivision subcommittee meeting, Ms. Perkins worked under the assumption that the bill would provide guidance on how pending applications should be treated.
- The Commission is familiar with the concept of grandfathering. Ms. Perkins did a deeper dive into the change that the General Assembly made, consulted with colleagues and outside counsel, there is no grandfathering provision in the new law. Further, there is no treatment or guidance as to how pending applications should be treated. Because of that, the new law would apply to anything pending, any plat or plan that is newly submitted after July 1st. This means it would apply to the Spratley Mills Subdivision Preliminary Plat, which has been considered by the Commission's since your May meeting. Therefore, to be in compliance with the Virginia Code, the approval or denial of the Spratley Mill preliminary subdivision Plat cannot remain with the Planning Commission. That decision will be made by the Agent, who is Mr. Wade. Mr. Wade will provide some technical updates on the project. Even though it has been taken out of the Planning Commission's hands by the General Assembly staff wants to acknowledge the work that the Planning Commission has been done on this project, most particularly by the Subdivision Subcommittee.

Mr. Wade:

- The landscape for the Planning Commission to approve plats like this has been changed drastically by the General Assembly. As the applicants do plan to resubmit, if and when this project is resubmitted, it is his responsibility to review those Plats. While the Planning Commission no longer has the authority, because it came before the Commission and there was valuable input, Mr. Wade will share how this project evolved over time on the efforts of staff, the Planning Commission and the applicant.
- As seen in tonight's meeting packet in the Subdivision Plat reduced the number of Lots from 32 to 25.

- The wetlands were preserved at the intersection of Spratley Mill Road and New Design Road and an area is no longer part of the subdivision. The applicant removed the entrances along New Design Road. They also clarified in the new drawing where the entrances would be located. Some lots have extra shared entrances along Spratley Mill Road.
- There is a lot that consists of an existing residence that preserves the field in the vicinity of the house from development. The preservation of that field is critical because Staff research indicates that the field has produced high agricultural yields compared to other areas in the County. Therefore, it is unable to be subdivided in accordance with Surry's zoning ordinance.
- In A-R districts, Section 3-303 (A)(2)(b) states, under number two, "A residential use on a lot of less than 10 acres and located in an agricultural field or pasture, shall meet the following additional criteria." Surry does not have the program described in (a). Looking at (b), "The layout shall meet at least one of the following criteria." Staff has reviewed and removed items two through five as not met and focused on item one, "That the crop has not historically produced high cultural yields relative to other soils in the County or the field is of irregular shape, such as the traditional cultivation methods are not efficient, in the opinion of a qualified public agency based on factual information such as crop yield report."
- Staff looked at the question of what is a public agency and which agency is the right agency to look to. Staff analyzed the maps of the Department of Conservation and Recreation, which is a public agency.
- Included in the staff report and shown on the screen, this is another shapefile or form from GIS showing the property and adding a layer taken from the Department of Conservation Recreation. The pink is labeled is labeled high yield agricultural property and anything less than that would be not of high yield. On the aerial photo, where the house is located is pink and therefore, high yield. When looking at the Preliminary Plat, that is the area that the project has preserved and set aside. It is not part of the subdivision. Looking at the other areas, the beige area may be part of a field, but are level 3 and do not have high yield or high value.
- The model from the Department of Conservation and Recreation demonstrates there are a significant number of high yielding agricultural properties throughout the County. Areas designated as 1 does not have much value but, 5 is high – where the pink is located.
- On the map the pink portion on the other side of the street there is a pink area on the south side of Spratley Mill but this is not a field, it is trees. The ordinance does not speak about trees, only crop land so this area of trees is not impacted by Section 3-303(A)(2)(b).

Ms. Perkins:

- As part of the staff's analysis to determine what constitutes a public agency, why is this data sufficiently accurate and if it complies with our ordinance, Ms. Perkins stepped in to review the validity of the data. Confirmed the data was taken from an Official DCR website, from shapefiles that are on the website, reviewed the technical report that accompanied this data and found that in Ms. Perkins legal opinion it meets the ordinance requirement of being an opinion from a public agency, DCR is 100% a public agency. This ordinance provides flexibility and provides more flexibility on two levels.
- First level, look at the opinion of a qualified public agency. Staff did due diligence reaching out to USDA, as did Ms. Perkins reach out to a branch of USDA. There was also outreach to the Extension Office as their data has been used in the past by staff when similar language was triggered in matters that went before the Board of Zoning Appeals. And staff reached out to

DCR and received certified data from DCR's public facing website. Ms. Perkins found the DCR data to be legitimate and the public agency requirement to be met.

- In the second portion where flexibility is provided by this ordinance, it talks about based upon factual information, such as crop yield reports. First, the language states "such as" so, the intention when this ordinance was enacted is that crop yield be one of the things that can be considered, but not the exclusive thing to be considered. Ms. Perkins suspects that the reason for that is that crop yield information is proprietary. Unless a farmer is willing to share that information, that information cannot be required by any public agency or disclosed to the County.
- In this particular case, the owner of the property is not the farmer of the property. The property is leased, and the farmer who leases the property has been unwilling to provide the crop yield information.
- The flexibility provided in the ordinance also factored into Ms. Perkins' determination that the data was gathered by staff from DCR as shown in the maps shown met the requirements of the ordinance. Since there has been discussion about whether DCR data is really the best data and if it meets the requirements of the ordinance, Ms. Perkins is in the process of getting a second opinion and consulting with outside legal counsel. We are doing our due diligence to make sure we are meeting the requirements of the ordinance.

Ms. Cheek asked if, going back to the ordinance, it says the layout shall meet at least one of the following. Do the other criteria meet two through five? Ms. Perkins said it did not, and that they have been ruled out by Staff.

Mr. Lunsford asked now that Mr. Wade exclusive rights of the decision for subdivision, does it eliminate having a public hearing on the matter? Ms. Perkins said that there were never to be public hearings on this matter. The approval or denial of a preliminary subdivision Plat or even a final Plat does not require a public hearing. Public hearings are required if after evaluation, amendments are recommended to the subdivision ordinance; you would have a public hearing process at the Planning Commission and at the Board of Supervisors' level.

Mr. Wade thanked the Planning Commission and the Subcommittee Commission members for their time and attention to this project. It identifies several areas where the subdivision ordinance could benefit and Staff will address the deficiencies that are seen in the ordinance. Mr. Wade said that when conducting reviews, staff will also be evaluating any subdivision ordinance amendments that are needed due to changes in the law by the General Assembly.

Mr. Berryman asked, "On the updates we may do to the Subdivision ordinance, can the County be more restrictive than the state code?" Ms. Perkins said it depends because certain provisions are required in the subdivision ordinance, they are set in the Virginia Code. Sometimes the Virginia Code will provide a locality with flexibility and will say, "If a locality would like to enact an ordinance that does X, Y, or Z, you can go ahead and do that. So that will be part of the legal review."

Mr. Berryman asked if that code gives the Planning Commission the authority to update the subdivision ordinance. Ms. Perkins said it gives the Planning Commission the ability to recommend updates to the subdivision ordinance. Any ordinance that falls under zoning/planning must be reviewed by the Planning

Commission and then submitted to the Planning Commission for a public hearing at a Planning Commission meeting. It then goes to the governing body. Ms. Perkins said that the Commission would offer a recommendation, just as it does with CUPs and rezonings. The Commission will issue a recommendation regarding the potential amendments, which will then be presented to the Board of Supervisors for a public hearing at the Board's meeting for approval or denial.

Ms. Cheek asked Mr. Wade to go back to the map. In the green area, on the lower left, how would entrance to lots be handled? Mr. Wade said that the developer would go for a Wetlands Permit either through a state or federal agency. There are certain requirements that the state has that must be met to allow Wetlands Crossing Permits. They may put in a culvert in to put a driveway over, allowing the wetlands to continue flowing through. It is something that is often seen in construction and not anything abnormal.

COMMENTS BY COMMISSIONER: Chair Wooden thanked Mr. Wade and Ms. Perkins for the updates. He asked if there were any other concerns from the Commission? If not, the members of the subdivision subcommittee, as said by Mr. Wade, "There will be work to do". Chair Wooden said, referencing this project, "Here are some things within the subdivision ordinance that need addressing." Chair Wooden said that the next meeting, as it stands, will be August 25th. Mr. Wade said that it depends on the timing of the advertisement. A motion was made in March for a historic preservation ordinance may be heard in August, but it depends on the schedule and if sufficient time for drafting and review.

ADJOURNMENT: Chair Wooden entertained a motion to adjourn at 8:41 PM until the August 25th meeting. It was moved by Mr. Newby and seconded by Mr. Berryman. Motion was carried, and the meeting was adjourned. All those in favor signify by saying Aye.
Commissioners: Aye